

# **Banking, Commerce and Insurance Committee**

**One Hundred Third Legislature  
Second Session – 2014**

## **SUMMARY OF 2014 LEGISLATION**

*Committee Members*

**Senator Mike Gloor, Chairperson**  
**Senator Mark Christensen, Vice Chairperson**  
**Senator Kathy Campbell**  
**Senator Tom Carlson**  
**Senator Tommy Garrett**  
**Senator Sara Howard**  
**Senator Pete Pirsch**  
**Senator Paul Schumacher**

*Committee Staff:*

**William Marienau, Committee Counsel**  
**Janice Foster, Committee Clerk**

## MEMORANDUM

TO: Members of the Legislature and  
Other Interested Persons

FROM: Senator Mike Gloor, Chairperson  
Banking, Commerce and Insurance Committee

DATE: June 13, 2014

RE: Summary of 2014 Session Legislation

I am pleased to present, for your reference, the following summary of the provisions and disposition of all carried-over 2013 bills and 2014 bills referenced to and considered by the Banking, Commerce and Insurance Committee.

I hope you find this summary helpful as you review our work as of the conclusion of the 2014 session. If you have questions or need additional information, please contact me or our committee staff: Bill Marienau, Legal Counsel or Janice Foster, Committee Clerk.

## **BANKING AND FINANCE**

### **LB712e (Gloor) Revise powers of state-chartered banks, building and loan associations, and credit unions**

**Enacted**

**Effective April 11, 2014**

This bill, introduced at the request of the Department of Banking and Finance, amends various sections relating to financial institutions. The bill provides, section by section, as follows:

Section 1 amends section 8-1,140 of the Nebraska Banking Act, which is the "wild-card" statute for state-chartered banks. This section is amended to provide that a state-chartered bank shall have all the rights, powers, privileges, benefits, and immunities which may be exercised as of January 1, 2014, rather than January 1, 2013, by a federally chartered bank doing business in Nebraska. Due to state constitutional restrictions on delegation of legislative authority, this section is amended annually.

Section 2 amends section 8-355, which is the "wild-card" statute for state-chartered savings and loan associations. This section is amended to provide that a state-chartered savings association shall have all the rights, powers, privileges, benefits, and immunities which may be exercised as of January 1, 2014, rather than January 1, 2013, by a federal savings and loan association doing business in Nebraska. Due to state constitutional restrictions on delegation of legislative authority, this section is amended annually.

Section 3 amends section 21-17,115 of the Nebraska Credit Union Act, which is the "wild-card" statute for state-chartered credit unions. This section is amended to provide that a state-chartered credit union shall have all the rights, powers, privileges, benefits, and immunities which may be exercised as of January 1, 2014, rather than January 1, 2013, by a federal credit union doing business in Nebraska. Due to state constitutional restrictions on delegation of legislative authority, this section is amended annually.

Section 4 provides for repeal of the amendatory sections.

Section 5 provides for the emergency clause.

The bill passed 47-0-2 with emergency clause on April 9, 2014 and was approved by the Governor on April 10, 2014.

**LB714e (Gloor) Eliminate provisions relating to forged, altered, or raised checks under the Nebraska Banking Act**

**Enacted**

**Effective April 11, 2014**

This bill provides for the outright repeal of sections 8-155 and 8-156 of the Nebraska Banking Act. These sections set out a statute of limitations and notice requirements relating to forged, altered, or raised checks. However, similar provisions for forged and altered checks exist within section 4-406 of the Uniform Commercial Code and those are the provisions generally followed by financial institutions.

The bill passed 48-0-1 with the emergency clause on April 9, 2014 and was approved by the Governor on April 10, 2014.

**LB815 (Murante) Change provisions relating to fiduciary accounts controlled by a trust department**

**Left on General File**

**Provisions amended into LB788 and Enacted**

This bill would amend section 8-162.02 of the Nebraska Banking Act, which provides that a state-chartered bank may deposit or have on deposit funds of a fiduciary account controlled by the bank's trust department. The bill would provide that to the extent that the funds are "awaiting investment or distribution and are" not insured or guaranteed by the Federal Deposit Insurance Corporation, a state-chartered bank shall set aside collateral as security under control of appropriate fiduciary officers and bank employees. The bill would provide that this section does not apply to a fiduciary account in which full investment authority is retained by the grantor or is vested in persons or entities other than the state-chartered bank and the bank, acting in its fiduciary capacity, does not have the power to exert any influence over investment decisions.

The bill carries the emergency clause.

## **CORPORATIONS AND OTHER COMPANIES**

### **LB168 (Larson) Authorize series limited liability companies**

#### **Left in Committee**

This bill would add six new sections to the Nebraska Uniform Limited Liability Company Act to authorize formation of Series LLCs.

A Series LLC would be a single LLC that has multiple "series" of membership interests, each of which may have separate members, managers, assets and liabilities, and business interests, and all of which would be separate for liability purposes.

Section 1 would amend section 21-101 of the Nebraska Uniform Limited Liability Company Act to provide for assignment of the new sections of the bill within the act.

Section 2 would provide for series of transferable interests.

Section 3 would provide for management of a series.

Section 4 would provide for series distributions.

Section 5 would provide for dissociation from a series.

Section 6 would provide for termination of a series.

Section 7 would provide for foreign series.

### **LB749 (B. Harr) Adopt the Nebraska Model Business Corporation Act**

#### **Enacted**

**Operative January 1, 2016**

#### **Banking, Commerce and Insurance Committee Priority Bill**

This bill enacts a revised and updated Nebraska Model Business Corporation Act (NMBCA) and repeals Nebraska's Business Corporation Act, sections 21-2001 to 21-20,197.

The new NMBCA, as well as the act being replaced, is based on the Model Business Corporation Act as approved and promulgated by the Committee on Corporate Laws of the Section of Business Law of the American Bar Association. The ABA committee is constantly updating its model act with substantive and stylistic changes throughout. In 1995, Nebraska enacted the act being replaced based

on what was the updated ABA model as it existed in 1994. Nebraska had adopted very few of the ABA committee's subsequent updates since that time.

The subject areas of the bill are as follows:

1. GENERAL PROVISIONS

Short Title and Reservation of Power (sections 1 and 2)  
Filing Documents (sections 3 to 12)  
Secretary of State (section 13)  
Definitions (sections 14 to 18)

2. INCORPORATION (sections 19 to 25)

3. PURPOSES AND POWERS (sections 26 to 29)

4. NAME (sections 30 to 32)

5. OFFICE AND AGENT (sections 33 to 36)

6. SHARES AND DISTRIBUTIONS

Shares (sections 37 to 40)  
Issuance of Shares (sections 41 to 49)  
Subsequent Acquisition of Shares by Shareholders and Corporation (sections 50 and 51)  
Distributions (section 52)

7. SHAREHOLDERS

Meetings (sections 53 to 61)  
Voting (sections 62 to 71)  
Voting Trusts and Agreements (sections 72 to 74)  
Derivative Proceedings (sections 75 to 82)  
Proceedings to Appoint Custodian or Receiver (section 83)

8. DIRECTORS AND OFFICERS

Board of Directors (sections 84 to 94)  
Meetings and Action of the Board (sections 95 to 101)  
Directors (sections 102 to 104)  
Officers (sections 105 to 109)  
Indemnification and Advance for Expenses (sections 110 to 119)  
Directors' Conflicting Interest Transactions (sections 120 to 123)  
Business Opportunities (section 124)

9. DOMESTICATION AND CONVERSION

Preliminary Provisions (sections 125 and 126)  
Domestication (sections 127 to 132)  
Nonprofit Conversion (sections 133 to 138)  
Foreign Nonprofit Domestication and Conversion (sections 139 to 142)

Entity Conversion (sections 143 to 149)

10. AMENDMENT OF ARTICLES OF INCORPORATION AND BYLAWS

Amendment of Articles of Incorporation (sections 150 to 158)

Amendment of Bylaws (sections 159 and 160)

11. MERGERS AND SHARE EXCHANGES (sections 161 to 168)

12. DISPOSITION OF ASSETS (sections 169 and 170)

13. APPRAISAL RIGHTS

Right to Appraisal and Payment for Shares (sections 171 to 173)

Procedure for Exercise of Appraisal Rights (sections 174 to 180)

Judicial Appraisal of Shares (section 181 and 182)

Other Remedies (section 183)

14. DISSOLUTION

Voluntary Dissolution (sections 184 to 192)

Administrative Dissolution (sections 193 to 196)

Judicial Dissolution (sections 197 to 201)

Miscellaneous (section 202)

15. FOREIGN CORPORATIONS

Certificate of Authority (sections 203 to 212)

Withdrawal or Transfer of Authority (sections 213 to 216)

Revocation of Certificate of Authority (sections 217 to 220)

16. RECORDS AND REPORTS

Records (sections 221 to 226)

Reports (sections 227 and 228)

PUBLICATION (section 229) (nonmodel section)

18. TRANSITION PROVISIONS (sections 230 to 232)

The bill also amends various sections outside the Business Corporation Act being replaced in order to harmonize provisions and internal references (sections 233 to 294). In particular, the bill makes such changes in sections of Chapter 21, article 3, which provide for the filing of biennial reports and corporate occupation tax. In order to make these sections more consistent with generally accepted usage, references to "automatic" dissolution and revocation are changed to "administrative" dissolution and revocation and references to biennial "fees" are changed to biennial "occupation taxes." The latter change is only a harmonization of long-standing inconsistent terminology usage and does not create a new tax or increase an existing tax (sections 238 to 261).

The bill provides for an operative date of January 1, 2016 (section 295).

The bill provides for severability (section 296).

The bill provides for repeal of the amendatory sections (section 297).

The bill provides for outright repeal of the sections of the Business Corporation Act being replaced (section 298).

The bill passed 48-0-1 on March 24, 2014 and was approved by the Governor on March 28, 2014.

## **LB751 (Conrad) Adopt the Nebraska Benefit Corporation Act**

**Enacted**

**Effective July 18, 2014**

**Speaker Priority Bill**

This bill enacts 14 new sections to be known as the Nebraska Benefit Corporation Act.

### **OVERVIEW**

The major characteristics of a benefit corporation are:

- (1) the requirement that a benefit corporation must have a corporate purpose to create a material positive impact on society;
- (2) an expansion of the duties of corporate directors to require consideration of non-financial stakeholders as well as the financial interests of shareholders; and
- (3) an obligation to report on its overall social and environmental performance using a comprehensive, credible, and transparent standard.

### **PROVISIONS OF THE BILL**

Under the bill, a benefit corporation would be a domestic business corporation which has elected to become subject to the Benefit Corporation Act (section 3). The articles of incorporation of a business corporation would need to state that the business corporation is a benefit corporation (section 4).

Under the bill, a benefit corporation must have a purpose of creating general public benefit in addition to its otherwise stated purpose as a business corporation (section 7). The articles of incorporation may identify one or more specific public benefits defined as including:

- (1) providing low-income or underserved individuals or communities with beneficial products or services;

(2) promoting economic opportunity for individuals or communities beyond the creation of jobs in the normal course of business;

(3) protecting or restoring the environment;

(4) improving human health;

(5) promoting the arts, sciences, or advancement of knowledge;

(6) increasing the flow of capital to entities with a purpose to benefit society or the environment; and

(7) conferring any other particular benefit on society or the environment (section 3).

The bill provides that the directors of a benefit corporation shall consider the effects of any action or inaction upon:

(1) the shareholders of the benefit corporation;

(2) the employees and work force of the benefit corporation, its subsidiaries, and its suppliers;

(3) the interests of customers as beneficiaries of the general public benefit or specific public benefit purposes of the benefit corporation;

(4) community and societal factors, including those of each community in which offices or facilities of the benefit corporation, its subsidiaries, or its suppliers are located;

(5) the local and global environment;

(6) the short-term and long-term interests of the benefit corporation; and

(7) the ability of the benefit corporation to accomplish its general public benefit purpose and any specific public benefit purpose (section 8).

The bill provides for limitation of personal liability of directors for monetary damages (sections 8 and 12).

The bill provides for the designation and duties of a benefit director and a benefit officer (sections 9 and 11).

The bill provides for duties of officers and for limitation of personal liability of officers for monetary damages (sections 10 and 12).

The bill provides for preparation and availability of an annual benefit report (section 13). The benefit report shall be filed with the Secretary of State (section 14).

The bill amends section 84-511 to authorize the Secretary of State to provide for the electronic transmission and filing of documents delivered for filing under the Nebraska Benefit Corporation Act.

The bill passed 44-0-5 on March 27, 2014 and was approved by the Governor on April 2, 2014.

### **LB751A (Conrad) Appropriation Bill**

**Enacted**

**Effective July 18, 2014**

This bill appropriates \$10,640 for FY2014-15 from the Corporation Cash Fund to the Secretary of State to carry out LB751.

The bill passed 43-0-6 on March 27, 2014 and was approved by the Governor on April 2, 2014.

### **LB753 (Gloor) Change a provision for notice of a change of address for an agent for service of process for a limited liability company and provide a filing fee**

**Enacted**

**Effective July 18, 2014**

This bill, introduced at the request of the Secretary of State, amends sections 21-114 and 21-192 of the Nebraska Limited Liability Company Act to provide that an agent for service of process designated by a domestic or foreign limited liability company (LLC) may change its address by notifying the LLC and by delivering to the Secretary of State for filing a statement of change of address for an agent for service of process. The filing fee for a statement shall be ten dollars for each LLC for which the agent is designated plus recording fees.

The bill passed 47-0-2 on April 9, 2014 and was approved by the Governor on April 10, 2014.

**LB774 (Pirsch) Change provisions relating to filing corrected or amended annual and biennial reports with the Secretary of State**

**Enacted**

**Effective July 18, 2014**

This bill amends section 13-2525 of the Joint Public Agency Act, section 21-125 of the Nebraska Uniform Limited Liability Company Act, section 21-19,172 of the Nebraska Nonprofit Corporation Act, and section 21-2923 of the Nebraska Limited Cooperative Association Act to provide that a correction or an amendment to the biennial report of a joint public agency, a domestic or foreign limited liability company, a domestic or foreign nonprofit corporation, or a domestic or foreign limited cooperative association may be delivered to the Secretary of State for filing at any time.

The bill amends section 67-456 of the Uniform Partnership Act of 1998 to provide that a correction or an amendment to the annual report of a domestic or foreign limited liability partnership may be filed with the Secretary of State at any time.

The bill passed 48-0-1 on April 10, 2014 and was approved by the Governor on April 10, 2014.

## **TRUSTS**

### **LB900 (Janssen) Change a Nebraska Uniform Trust Code provision governing charitable trusts**

#### **Left in Committee**

This bill would amend section 30-3810 (UTC 110) of the Nebraska Uniform Trust Code (NUTC) to repeal provisions which provide that the attorney general has the rights of a qualified beneficiary with respect to a charitable trust having its principal place of administration in Nebraska.

#### **Background**

Charitable trusts do not have beneficiaries in the usual sense. However, certain persons, while not technically beneficiaries, do have an interest in seeing that the charitable trust is enforced. Under the NUTC, this includes the attorney general as well as charitable organizations expressly designated to receive distributions under the terms of the trust.

Under the NUTC, certain notices need be given only to the qualified beneficiaries. Among them are notice of a transfer of the trust's principal place of administration, notice of trust division or combination, notice of a trustee resignation, and notice of a trustee's annual report. Certain actions, such as the appointment of a successor trustee, can be accomplished by the consent of the qualified beneficiaries.

#### **Comment**

In keeping with the apparent intent of the bill, it would probably also be necessary to amend subdivision (d)(2) of section 30-3860 of the NUTC.

## INSURANCE

### **LB71 (Karpisek) Require insurance coverage for cochlear implants**

#### **Left in Committee**

This bill would enact a new section to provide that individual and group sickness and accident insurance policies, certificates, and subscriber contracts; hospital, medical, or surgical expense-incurred policies; and self-funded employee benefit plans to the extent not preempted by federal law shall provide coverage for single or bilateral cochlear implants for persons diagnosed with severe to profound hearing impairment.

### **LB80 (Schumacher) Change motor vehicle liability insurance and financial responsibility requirements**

#### **Left in Committee**

This bill would increase the current required minimum limits of motor vehicle insurance coverage (1) for bodily injury to or death of other persons and (2) for damage to property of others. The bill would provide, section by section, as follows:

#### UNINSURED AND UNDERINSURED COVERAGE

Section 1 would amend section 44-6408 of the Uninsured and Underinsured Motorist Insurance Coverage Act to increase the minimum limits (1) from \$25,000 to \$50,000 for injury to or death of one person in one accident and (2) from \$50,000 to \$100,000 for injury to or death of two or more persons in one accident. (There are no statutory requirements for uninsured and underinsured coverage of injury to or destruction of property of other persons.)

#### LIABILITY COVERAGE

Sections 2 to 6 would amend the following sections to increase the minimum liability limits (1) from \$25,000 to \$50,000 for injury to or death of one person in one accident, (2) from \$50,000 to \$100,000 for injury to or death of two or more persons in one accident, and (3) from \$25,000 to \$50,000 for injury to or destruction of property of other persons in one accident:

Section 60-310 of the Motor Vehicle Registration Act (definition of "automobile liability policy" for purposes of motor vehicle registration requirements) (section 2 of the bill);

Section 60-346 of the Motor Vehicle Registration Act (definition of "proof of financial responsibility" for purposes of motor vehicle registration requirements) (section 3 of the bill);

Section 60-501 of the Motor Vehicle Safety Responsibility Act (definition of "proof of financial responsibility") (section 4 of the bill);

Section 60-509 of the Motor Vehicle Safety Responsibility Act (requirements for an automobile liability policy or bond) (section 5 of the bill); and

Section 60-534 of the Motor Vehicle Safety Responsibility Act (requirements for a certified SR22 motor vehicle liability policy) (section 6 of the bill).

Section 7 would amend section 60-549 of the Motor Vehicle Safety Responsibility Act to increase the minimum amount of cash or securities deposited with the State Treasurer necessary to evidence proof of financial responsibility from \$75,000 to \$150,000 - historically this amount has been the sum of the minimum limit for bodily injury to or death of two or more persons plus the minimum limit for injury to or destruction of property of other persons. This section would express this amount by means of an internal reference to subdivisions (13)(b) and (c) of section 60-501.

#### MISCELLANEOUS PROVISIONS

Section 8 would provide for an operative date of January 1, 2014.

Section 9 would provide for repeal of the amendatory sections.

Minimum limits requirements were first enacted in 1949 and have been increased three times thereafter, as follows:

1949	LB493	\$5,000/\$10,000/\$1,000
1959	LB628	\$10,000/\$20,000/\$5,000
1973	LB365	\$15,000/\$30,000/\$10,000
1983	LB253	\$25,000/\$50,000/\$25,000 (current)

#### **LB92 (Karpisek) Prohibit use of credit information for insurance and repeal a model act**

##### **Left in Committee**

This bill would enact a new section to provide that (1) an insurer shall not use credit information in connection with the issuance, underwriting, renewal, cancellation, or denial of or any other action related to insurance and (2) an insurer shall not use an insurance score that is calculated using income, gender, address, zip code, ethnic group, religion, marital status, or nationality of the consumer as a factor.

The bill would provide definitions for the terms "consumer," "credit information," "credit report," "insurance score," and "insurer."

The bill would provide that it becomes operative on January 1, 2014.

The bill would outright repeal sections 44-7701 to 44-7712, the Model Act Regarding Use of Credit Information in Personal Insurance.

**LB218 (Avery) Require insurance coverage for certain food formulas as prescribed**

**Left in Committee**

This bill would enact a new section to provide that individual and group sickness and accident insurance policies, certificates, and subscriber contracts; hospital, medical, or surgical expense-incurred policies; and self-funded employee benefit plans to the extent not preempted by federal law shall provide coverage for the provision of amino acid-based formulas for the treatment of an eosinophilic disorder or short bowel syndrome.

The bill would require such coverage for a patient born on or after January 1, 2012, who is less than five years of age and whose prescribing physician has issued an order stating that the formula is medically necessary and is the sole or primary source of nutrition.

**LB228 (Nordquist) Provide requirements relating to copayments, coinsurance, and deductibles relating to certain services**

**Left in Committee**

This bill would enact a new section to provide that a health insurer shall not charge a copayment, coinsurance, or deductible for services by a physical therapist, occupational therapist, audiologist, or speech-language pathologist that is greater than the copayment, coinsurance, or deductible charged for the services of a primary care physician or an osteopath.

The bill would provide that it shall apply to health benefit plans delivered or issued for delivery or renewed on or after January 1, 2014.

**LB239 (Wightman) Adopt the Nebraska All-Payer Patient-Centered Medical Home Act**

**Left in Committee**

This bill would enact the Nebraska All-Payer Patient-Centered Medical Home Act to require the Department of Insurance, with the input of the Medical Home Advisory Committee, to design and require patient-centered medical home care coverage to be provided by the three largest health insurers in Nebraska to their insureds or beneficiaries over a phased-in implementation schedule from 2015 to 2018.

The bill would provide, section by section, as follows:

Section 1 would provide for a named act: the Nebraska All-Payer Patient-Centered Medical Home Act.

Section 2 would provide legislative findings and would provide legislative intent of the bill to improve access to health care, improve the quality of health care, and contain costs through a model of primary care called patient-centered medical home care.

Section 3 would provide definitions for "advisory committee," "department," "director," "health insurer" (the top three health insurers in the Nebraska market), "patient-centered medical home" (a health care delivery model in which a patient establishes an ongoing relationship with a physician in a physician-directed team to provide comprehensive, accessible, and continuous evidence-based primary and preventive care and to coordinate the patient's health care needs across the health care system), and "primary care physician."

Section 4 would provide for the Medical Home Advisory Committee. The members would consist of the Director of Insurance and the following members appointed by the Governor: one representative of each health insurer; three primary care physicians practicing in the areas of general and family medicine, internal medicine, and pediatrics; and one representative from a hospital. The advisory committee would also consist of two ex-officio nonvoting members: the Chairperson of the Legislature's Health and Human Services Committee and the Director of Public Health of the Division of Public Health of the Department of Health and Human Services.

Section 5 would provide for organization of the advisory committee. The members appointed by the Governor would be reimbursed for actual and necessary expenses. The Department of Insurance would provide administrative support to the advisory committee.

Section 6 would provide for removal of advisory committee members and filling of vacancies.

Section 7 would provide that the advisory committee would provide consultation to the Director of Insurance on all matters relating to rules and regulations, standards, and payment mechanisms. The advisory committee would (1) guide and assist the Department of Insurance in the design and implementation of patient-centered medical home care and (2) promote the use of best practices to ensure access to patient-centered medical home care for insureds and beneficiaries.

Section 8 would provide that Director of Insurance shall convene the advisory committee as necessary. The advisory committee would propose: (1) consistent criteria for what qualifies as a patient-centered medical home; (2) consistent quality measures; and (3) consistent reporting and electronic record-keeping requirements. The Director of Insurance would be required to justify the reason for any departure from the guidance provided by the advisory committee.

Section 9 would provide that group health insurance plans of each health insurer shall include coverage for patient-centered medical home care on a phased-in implementation schedule of fifteen percent to seventy percent of insureds or beneficiaries over the period of 2015 to 2018. The Director of Insurance would be authorized to order an insurer to participate in providing access to patient-centered medical home care or determine the insurer is in violation of the Unfair Insurance Trade Practices Act.

Section 10 would provide that the Director of Insurance shall direct the advisory committee to consider additional reforms to sickness and accident insurance that could be implemented to support patient-centered medical home care.

Section 11 would provide that the advisory committee shall make recommendations to the Director of Insurance regarding the designation of patient-centered medical home care to promote diversity in the size of practices designated and the geographic location of practices designated and ensure accessibility of the population throughout the state to patient-centered medical home care.

Sections 12 and 13 would provide for reports to the Legislature by the Director of Insurance.

Section 14 would provide that the act shall not preclude the development of payment mechanisms for persons who have other coverages.

Section 15 would provide the Director of Insurance with rule and regulation authority to carry out the act.

### **LB312 (Scheer) Designate certain acts as unfair insurance trade practices**

#### **Left in Committee**

This bill would amend section 44-1525 of the Unfair Insurance Trade Practices Act to provide that the following acts or practices by an insurer shall be unfair trade practices in the business of insurance:

Refusing to issue, refusing to renew, canceling, or limiting the amount of coverage on a property and casualty risk due to weather-related casualties to the risk;

Surcharging a policyholder for a property and casualty loss on which the insurer did not pay a claim; and

Surcharging a policyholder for a property and casualty loss due to weather-related casualties to a previously occupied or noncovered property.

**LB397 (Conrad) Require insurance coverage for screening for amino acid-based formulas**

**Left in Committee**

**Provisions regarding the subject of this bill amended into LB254e and Enacted**

This bill would enact a new section to provide that individual and group sickness and accident insurance policies, certificates, and subscriber contracts; hospital, medical, or surgical expense-incurred policies; and self-funded employee benefit plans to the extent not preempted by federal law shall include screening coverage for amino acid-based elemental formulas for the diagnosis and treatment of Immunoglobulin E and non-Immunoglobulin E mediated allergies to multiple food proteins, food-protein-induced enterocolitis syndrome, eosinophilic disorders, and impaired absorption of nutrients caused by disorders affecting the absorptive surface, functional length, and motility of the gastrointestinal tract, when the ordering physician has issued a written order stating that the formula is medically necessary for the treatment of a disease or disorder.

**LB505 (Coash) Provide requirements for insurance coverage of autism spectrum disorders**

**Left on General File**

**Provisions amended into LB254e and Enacted**

This bill would enact a new section to provide that individual and group sickness and accident insurance policies, certificates, and subscriber contracts; hospital, medical, or surgical expense-incurred policies; and self-funded employee benefit plans to the extent not preempted by federal law shall provide coverage for the screening, diagnosis, and treatment of an autism spectrum disorder in an individual under twenty-one years of age.

The bill would provide that, as of January 1, 2014, to the extent it requires benefits that exceed the essential health benefits required under the federal Patient Protection and Affordable Care Act, the specific benefits that exceed the required essential health benefits shall not be required of a qualified health plan offered in this state through an exchange.

The bill would provide that the required coverage shall not be subject to any limits on the number of visits for treatment, and that such coverage shall not be subject to dollar limits, deductibles, copayments, or coinsurance provisions that are less favorable than the equivalent provisions applicable to a general physical illness.

The bill would provide that the required coverage shall be subject to a maximum benefit of \$70,000 per year for the first three years of treatment and \$20,000 per year for each year of treatment thereafter until twenty-one years of age.

The bill would provide that, on or after January 1, 2015, the Director of Insurance shall annually adjust the maximum benefit for inflation by using the medical care component of the Consumer Price Index for All Urban Consumers.

The bill would provide that the Director of Insurance shall grant a small employer (at least two but not more than 50 employees) a waiver from the provisions of the bill if the small employer demonstrates by actual claims experience that compliance with the bill has increased premium costs over a year by two and one-half percent or greater.

#### COMMITTEE AMENDMENTS

The committee amendments (AM2094) would become the bill.

The committee amendments would clarify that the bill would not apply to qualified health plans in the individual and small group markets sold through and outside the Exchange that are required to include essential health benefits under the federal Patient Protection and Affordable Care Act.

The committee amendments would provide that coverage for behavioral health treatment shall be subject to a maximum benefit of "twenty-five hours per week until the insured reaches twenty-one years of age" rather than "seventy thousand dollars per year for the first three years of treatment and twenty thousand dollars per year for each year of treatment thereafter until the insured reaches twenty-one years of age" subject to an annual inflation adjustment.

The committee amendments would provide that an insurer shall have the right to request a review of an individual's treatment every six months rather than every twelve months.

The committee amendments would omit provisions that would require the Director of Insurance to grant waivers from the requirements of the bill to small employers that demonstrate that compliance has increased premium costs by two and one-half percent or greater in a year.

#### **LB523 (Christensen) Provide requirements for copayments, coinsurance, and deductibles relating to certain services**

##### **Left in Committee**

This bill would enact a new section to provide that a health insurer shall not charge a copayment, coinsurance, or deductible for services by a physical therapist, occupational therapist, audiologist, speech-language pathologist, chiropractor, or chiropractic physician that is greater than the copayment, coinsurance, or deductible charged for the services of a physician or an osteopathic physician.

The bill would provide that it shall apply to health benefit plans delivered or issued for delivery or renewal on or after January 1, 2014.

**LB614 (Schumacher) Provide for withholding insurance proceeds for demolition costs**

**Left in Committee**

This bill would enact a new insurance section to provide for the withholding by a property and casualty insurer of insurance proceeds in a demolition cost reserve for the benefit of a city, village, or county if damaged real property is located within the city or village or within the county outside a city or village.

The new section would provide as follows:

Subsection (1) would provide that after an insurer makes payment to all mortgagees on a fire and casualty insurance policy on any real property covered by such policy, the insurer shall reserve ten thousand dollars or ten percent of the coverage limit, whichever is greater, to be held as a demolition cost reserve if (a) the real property is located within the limits of a city or village or within a county outside of a city or village, including within the zoning jurisdiction of such city or village, (b) the damage to the real property renders the property uninhabitable or unfit for its intended use without repair, and (c) proof of loss has been submitted by the policyholder to the insurer for a sum in excess of seventy-five percent of the face value of the policy.

Subsection (2) would provide that if the insurer receives proof of loss, it shall notify the clerk of the city, village, or county of the existence of the demolition cost reserve.

Subsection (3) would provide that the city, village, or county shall release all interest in the demolition cost reserve within 180 days of notice unless the city or village has instituted legal proceedings or issued a demolition order.

Subsection (4) would provide that a demolition cost reserve shall not be required if (a) the insurer has received notice from the insured and the city, village, or county that the real property has been replaced or rebuilt, repairs have been completed, or demolition has been completed, or (b) the city or village has failed to notify the insurer that it has instituted legal proceedings or issued a demolition order.

Subsection (5) would provide that if the city, village, or county has instituted legal proceedings, issued an order for demolition, undertaken emergency action, or is required to demolish the real property at its expense, the city, village, or county shall present to the insurer a report of demolition costs. Upon receipt of the report, the insurer shall compensate the city, village, or county up to the amount in the demolition cost reserve. Any amount remaining shall be paid to the insured if the insured is entitled to it.

Subsection (6) would provide that the insurer is not liable for any demolition costs (a) not covered under the policy, (b) in excess of policy liability limits, or (c) to the extent the demolition cost reserve amount is needed to pay any interest of a mortgagee on the policy.

Subsection (7) would provide that an insurer and its agent that complies with this section shall be immune from any civil liability.

**LB621 (Karpisek) Exempt certain information from disclosure under the Intergovernmental Risk Management Act**

**Left in Committee**

This bill would amend section 44-4318 of the Intergovernmental Risk Management Act to provide that proprietary or commercial information which belongs to or which has been provided to a risk management pool and which, if released, would give advantage to business competitors and serve no public purpose, shall be exempt from disclosure under the public records statutes.

The bill would provide that a risk management pool or provider of records desiring an exemption shall identify to the Director of Insurance any specific competitor which might gain an advantage from the disclosure and the nature of the advantage.

**LB655 (Carlson) Permit collection of fees of insurance consultants**

**Left in Committee**

This bill would amend section 44-2629 of the insurance consultant statutes to provide that nothing in the statutes shall prohibit or restrict the right of a client with one hundred or more employees to request that a third party, including an insurance company issuing a policy to the client, collect from the client and remit to the consultant the fees charged by the consultant for services allowed by the insurance consultant statutes.

The bill carries the emergency clause.

**LB688 (Christensen) Change provisions relating to cease and desist orders of the Director of Insurance**

**Left on General File  
Provisions amended into LB700 and Enacted**

This bill, introduced at the request of the Director of Insurance, would amend section 44-3524 of the Motor Vehicle Service Contract Reimbursement Insurance Act to require that when issuing a cease and desist order to a motor vehicle service contract provider, the director shall serve notice of the reasons for the order and shall allow the motor vehicle service contract provider to request a hearing to be conducted in accordance with the Administrative Procedure Act. If no hearing is requested, the order would remain in effect until modified or vacated.

**LB700 (Schumacher) Adopt the Risk Management and Own Risk and Solvency Assessment Act, provide requirements for certain health care sharing ministries, and change provisions relating to insurance rules and regulations, definitions, cease and desist orders, and risk-based capital**

**Enacted**

**Operative January 1, 2015, except section 12 to 21 become operative on July 18, 2014 (effective date of the bill)**

**Contains the provisions of LB993, LB926, LB688, and LB715**

**Speaker Priority Bill**

This bill, as introduced at the request of the Director of Insurance, enacts the Risk Management and Own Risk and Solvency Assessment Act. It enacts various sections requiring certain domestic insurers to perform own risk solvency assessments to be provided to the Director of Insurance on request. The provisions of four other bills were amended into LB700. Those bills are:

1. LB993 (Christensen) Provide that health care sharing ministries are not insurance (section 12);
2. LB926 (Howard) Change provisions relating to rules and regulations of the Department of Insurance (sections 13, 14, and 16);
3. LB688 (Christensen) Change provisions relating to cease and desist orders of the Director of Insurance (section 15); and
4. LB715 (Gloor) Add definitions relating to insurance (sections 17 to 19).

The bill provides, section by section, as follows:

Section 1 enacts a new section to provide that sections 1 to 11 of this act shall be known as the Risk Management and Own Risk and Solvency Assessment Act ("act").

Section 2 enacts a new section to declare that the purpose of the act is to provide requirements for maintaining a risk management framework and completing an own risk and solvency assessment and to provide instructions for filing an own risk and solvency assessment summary report with the Director of Insurance.

Section 3 enacts a new section to declare that the own risk and solvency assessment summary reports will include confidential information and that it is the intent of the Legislature to make the reports confidential documents subject to sharing only as provided in the act, only to assist the Director of Insurance in performance of his or her duties and not subject to public disclosure.

Section 4 enacts a new section to define terms for the purposes of the act. "Insurer" and "insurance group" are defined as in the sections 44-103 and 44-2121 respectively. "Own

risk and solvency assessment" is defined as a confidential internal assessment conducted by the insurer or insurance group of the risks associated with the current business plan and sufficiency of capital resources. "Own risk solvency assessment guidance manual" is defined as the manual prescribed by the Director of Insurance conforming substantially to the manual developed and adopted by the National Association of Insurance Commissioners (NAIC) and further defines the effective date to changes to the manual. "Own risk and solvency assessment summary report" is defined as a confidential high level summary of the own risk and solvency assessment.

Section 5 enacts a new section to require an insurer or insurance group to maintain a risk management framework to assist with material and relevant risks.

Section 6 enacts a new section to require an insurer or insurance group to, no less than annually or in the event of significant changes to the risk profile, conduct an own risk and solvency assessment consistent with a process comparable to that in the manual.

Section 7 enacts a new section to require submission of an own risk and solvency assessment summary report upon request of the Director of Insurance. The report is required to include a signature of the chief risk officer. An insurer can comply by providing the most recent report to the insurance regulator of another state or foreign jurisdiction. The bill specifies that the first filing of the report will be in 2015.

Section 8 enacts a new section to exempt an insurer from the requirements of the act if it has annual direct written and unaffiliated assumed premium of less than five hundred million dollars and an insurance group if it has annual direct written and unaffiliated assumed premium of less than one billion dollars. If the insurer is exempt, but the insurance group is not, the report is required to include every insurer within the group. If the insurance group is exempt and the insurer is not, the only filing required is that applicable to the individual insurer. The bill authorizes the Director of Insurance to grant a waiver and adopt factors for the director to consider when doing so. The bill allows the director to require maintenance of a risk management framework and submission of a report even if an exemption applies, and specifically, if an insurer has a risk based capital company action level event, is in hazardous financial condition, or is a troubled insurer.

Section 9 enacts a new section to require an own risk and solvency assessment summary to be prepared consistent with the manual, and require review under a procedure similar to that used in the analysis and examination of multistate or global insurers and insurance groups.

Section 10 enacts a new section to specify that information obtained under the act is recognized as being proprietary and to contain trade secrets. The bill deems such information confidential, privileged, not a public record, and not subject to subpoena, discovery, or admissible in evidence in a private civil action. The bill grants the Director of Insurance authority to use the documents as part of the director's official duties. The bill prohibits disclosure otherwise and prohibits testimony in private civil actions. The bill authorizes sharing information with other state, federal, and international financial

regulatory agencies and with the National Association of Insurance Commissioners (NAIC) and third party consultants if the recipient agrees in writing to maintain confidentiality. The bill authorizes the director to receive information from other state, federal, and international regulatory agencies and from the NAIC on a confidential basis. The bill requires the director to enter written agreements with the NAIC or third party consultants governing the sharing and use of such information and specifying that the ownership of information remains with the director, and prohibiting storage of information in a permanent database after completion of analysis.

Section 11 enacts a new section to impose a penalty of two hundred dollars per day not to exceed ten thousand dollars if an insurer fails to file an own risk solvency assessment summary report and provides standards for the Director of Insurance to consider in the reduction of the penalty.

Section 12 enacts a new section to provide that a health care sharing ministry shall not be considered to be engaging in the business of insurance. This section defines "health care sharing ministry" as a faith-based, tax-exempt, nonprofit organization that: (a) limits its participants to those of a similar faith; (b) matches participants with financial or medical needs with other participants with the ability to assist those with financial or medical needs; (c) provides for financial or medical needs of a participant through contributions from other participants; (d) provides amounts that participants may contribute with no assumption of risk or promise to pay; (e) provides written monthly statements; (f) provides a written disclaimer and notice; (g) has participants who retain participation even after they develop a medical condition; and (h) conducts an annual certified public accountant audit.

Section 13 amends section 12-1109 to authorize rather than require the Director of Insurance to adopt and promulgate rules and regulations to carry out and enforce the Burial Pre-Need Sale Act.

Section 14 amends section 44-165 to authorize rather than require the Director of Insurance to adopt and promulgate rules and regulations regarding the regulation of financial conglomerates on a consolidated basis.

Section 15 amends section 44-3524 of the Motor Vehicle Service Contract Reimbursement Insurance Act to require that when issuing a cease and desist order to a motor vehicle service contract provider, the Director of Insurance shall serve notice of the reasons for the order and shall allow the motor vehicle service contract provider to request a hearing conducted in accordance with the Administrative Procedure Act. If no hearing is requested and none is ordered by the director, the order will remain in effect until modified or vacated by the director.

Section 16 amends section 44-3719 to authorize rather than require the Director of Insurance to adopt and promulgate rules and regulations to carry out and enforce the Motor Club Services Act.

Section 17 amends section 44-5702 of the Producer-Controlled Property and Casualty Insurer Act to apply the provisions of the act to risk retention groups.

Section 18 amends section 44-6008 of the Insurers and Health Organizations Risk-Based Capital Act to apply the provisions of the act to risk retention groups.

Section 19 amends section 44-6016 of the Insurers and Health Organizations Risk-Based Capital Act to increase the risk-based capital trend test trigger for life and health insurers from 2.5 to 3.0 and apply a trend test that would trigger a company action level event to health organizations.

Section 20 provides for operative dates. Sections 1 to 11 become operative on January 1, 2015 and sections 12 to 21 become operative on their effective date (July 18, 2014).

Section 21 provides for repeal of the amendatory sections.

The bill passed 46-0-3 on April 17, 2014 and was approved by the Governor on April 22, 2014.

## **LB715 (Gloor) Add definitions relating to insurance**

### **Left on General File**

### **Provisions amended into LB700 and Enacted**

This bill, introduced at the request of the Director of Insurance, would amend section 44-5702 of the Producer-Controlled Property and Casualty Insurer Act and sections 44-6008 and 44-6016 of the Insurers and Health Organizations Risk-Based Capital Act. The bill would provide, section by section, as follows:

Section 1 would repeal an exemption for risk retention groups from the provisions of the Producer-Controlled Property and Casualty Insurer Act in section 44-5702 to apply the provisions of the act to risk retention groups.

Section 2 would amend section 44-6008 of the Insurers and Health Organizations Risk-Based Capital Act to apply the provisions of the act to risk retention groups.

Section 3 would amend section 44-6016 to increase the risk-based capital trend test trigger for life and health insurers from 2.5 to 3.0 and apply a trend test that would trigger a company action level event to health organizations.

Section 4 would provide for repeal of the amendatory sections.

**LB716 (Gloor) Provide procedures relating to electronic delivery of insurance notices and documents and Internet posting of certain insurance policies**

**Left in Committee**

This bill would enact two new sections to provide procedures for electronic delivery of notices and documents (section 1) and Internet posting of property and casualty insurance policies (section 2).

Subject to consent by a party, (1) any notice to a party or (2) any other document (a) required by law in an insurance transaction or (b) that is to serve as evidence of insurance coverage may be delivered, stored, and presented by electronic means. Delivery of a notice or document in accordance with the bill shall be considered equivalent to any delivery method required under law.

Delivery by electronic means would include (1) delivery to an electronic mail address at which the party has consented to receive notices or documents, and (2) posting on an electronic network or site accessible via an electronic device.

A "party" would mean any recipient of any notice or document required as part of an insurance transaction, including an applicant, an insured, a policyholder, or an annuity contract holder.

**LB735 (Bolz) Require refund of certain insurance premiums upon death of insured**

**Enacted**

**Effective July 18, 2014**

This bill provides that upon the death of the insured of an individual sickness and accident policy or Medicare supplement policy, the insurer, upon request, shall refund the unearned premium prorated to the month of the insured's death to a party legally entitled to claim the refund. The request for the refund must be made within one year after the insured's death.

The bill passed 48-0-1 on April 9, 2014 and was approved by the Governor on April 10, 2014.

**LB755 (Gloor) Adopt the Standard Valuation Act for valuation of insurance reserves**

**Enacted**

**Effective July 18, 2014**

**Banking, Commerce and Insurance Committee Priority Bill**

This bill, introduced at the request of the Director of Insurance, enacts the Standard Valuation Act and updates the regulatory standards applicable to setting of reserves by insurance companies. The bill provides, section by section, as follows:

**Principle-Based Reserving**

Section 1 enacts a new section to provide that sections 1 to 12 of the bill shall be known as Standard Valuation Act.

Section 2 enacts a new section to provide that the act applies to policies and contracts issued on or after the operative date of the valuation manual designated as provided in section 8 of the act.

Section 3 enacts a new section to define terms for the purposes of the act. "Principle-based valuation" is defined as a reserve valuation that uses one or more methods or one or more assumptions determined by the insurer. "Valuation manual" is defined as the valuation manual prescribed by the Director of Insurance which conforms substantially to the valuation manual developed and adopted by the National Association of Insurance Commissioners (NAIC).

Section 4 enacts a new section to require that the Director of Insurance annually value the reserves for all outstanding life insurance contracts, accident and health insurance contracts, and deposit-type contracts of every company issued on or after the operative date of the valuation manual.

Section 5 enacts a new section to require that the companies with outstanding life insurance contracts, accident and health contracts, and deposit-type contracts shall submit the opinion of the appointed actuary as to whether the reserves are computed appropriately, based on assumptions that satisfy contractual provisions, consistent with prior reported amounts, and comply with applicable law. The opinion shall also include whether the reserves, when considered in light of the assets held to support the reserves, adequately provide for the company's policy obligations. The bill sets standards for the form and content of, and procedure for submitting the memorandum.

The bill specifies that information in the memorandum in support of the opinion is confidential, privileged, not a public record, and not subject to subpoena, discovery, or admissible in evidence in a private civil action. The bill grants the Director of Insurance authority to use the information as part of the director's official duties. The bill prohibits disclosure otherwise and prohibits testimony in private civil actions. The bill authorizes sharing information with other state, federal, and international financial regulatory

agencies, and with the NAIC if the recipient agrees in writing to maintain confidentiality. The bill authorizes the director to receive information from other state, federal, and international regulatory agencies, and with the NAIC on a confidential basis. The bill provides that the information may be subject to subpoena to defend an action seeking damages from the actuary and may be used for disciplinary proceedings. The bill also specifies that if a company cites the materials in marketing, all portions of the memorandum would no longer be confidential.

Section 6 requires that for accident and health insurance contracts issued on or after the operative date of the valuation manual, the standard prescribed is the minimum standard required under section 4 of the act. For disability and sickness and accident insurance contracts issued on or after the date set forth in section 44-407.07, January 1, 1950, but before the operative date of the valuation manual, the standard is that adopted by rule and regulation of the Director of Insurance.

Section 7 amends section 44-404 to harmonize internal references and to specify that the section applies to policies issued prior to the operative date of the valuation manual, and to provide that sections 8 and 9 of the act shall not apply to those contracts. The bill specifies that aggregate reserves for all policies cannot be less than the aggregate reserves determined by the appointed actuary to be necessary to render the required actuarial opinion.

Section 8 enacts a new section to set the operative date of the valuation manual and to require the Director of Insurance to adopt the valuation manual no later than July 1, 2017, with an operative date as of January 1 after the date on which the director prescribes the manual. The bill provides that changes adopted by the director to the valuation manual are effective January 1 following adoption of the change unless the manual specifies a later date. The bill requires the director to adopt a valuation manual to specify minimum valuation standards for and definitions of the policies set forth in section 4 of the act, the policies subject to principle-based valuation and for those policies, the formats for reports, assumptions, and procedures for corporate governance. For policies not subject to principle-based valuation, the minimum valuation standard shall either be consistent with the valuation standard prior to the operative date of the valuation manual or develop reserves that quantifies the benefits associated with the contracts. The valuation manual shall set the data and form of the data required and may specify such other requirements as data analyses and reporting. The bill allows the director to employ or contract for actuarial examinations of the company at the expense of the company and rely on the opinion of a qualified actuary engaged by another state or territory. The bill specifies that the director may require a company to change any assumption and adjust reserves and grants the director authority to take other disciplinary action.

Section 9 enacts a new section to require insurers to establish reserves using a principle-based valuation that quantifies benefits and funding associated with contracts, incorporates assumptions consistent with the overall risk management process, and incorporates assumptions. The bill requires insurers using a principle-based valuation to establish corporate governance procedures, provide the Director of Insurance and board

an annual certification of the effectiveness of internal controls, and file a report with the director.

Section 10 enacts a new section to require a company to submit mortality, morbidity, policyholder behavior, or expense experience as prescribed in the valuation manual.

Section 11 enacts a new section to define confidential information to include a memorandum in support of an opinion, working papers, information in support of annual certifications, principle-based valuation reports, and experience data. The bill specifies that a company's confidential information is confidential, privileged, not a public record, not subject to subpoena, discovery, or admissible in a private civil action, but that the Director of Insurance may use the information in a regulatory action. The bill authorizes sharing of information with federal, state, or international regulatory agencies, and the NAIC, and in disciplinary matters, the Actuarial Board for Counseling and Discipline if the recipient agrees to maintain confidentiality. The director is authorized to receive information from federal, state, and international agencies, and the NAIC under the protections in this section. Information may be released to defend an action against an appointed actuary, with the written consent of the company, or if the information is made public by the company.

Section 12 enacts a new section to grant the director authority to exempt specific products from the act in writing if the company computes reserves using assumptions used before the operative date of the valuation manual.

#### Miscellaneous Provisions

Section 13 amends section 44-403 to harmonize internal references.

Section 14 amends section 44-407.23 to harmonize internal references.

Section 15 amends section 44-407.24 to specify that for policies issued on or after the operative date of the valuation manual, the valuation manual will provide the standard mortality table for determining the minimum nonforfeiture standard that may be substituted for the Commissioners 1980 Standard Ordinary Mortality Table, and for the Commissioners 1961 Standard Industrial Mortality Table. The bill specifies that the nonforfeiture interest rate shall not be less than four percent, but for policies issued after the operative date of the valuation manual, the rate shall be provided in the valuation manual.

Section 16 amends section 44-407.26 to harmonize an internal reference.

Section 17 amends section 44-408 to harmonize an internal reference.

Section 18 provides for repeal of the amendatory sections.

Section 19 provides for the outright repeal of section 44-402 (replaced provisions regarding valuation of reserves).

The bill passed 48-0-1 on March 24, 2014 and was approved by the Governor on March 28, 2014.

**LB799 (Carlson) Change a filing requirement for insurance companies**

**Left on General File  
Speaker Priority Bill**

This bill would amend section 44-322 to repeal the requirement that every insurance company holding a certificate of authority to transact the business of insurance in Nebraska shall annually file the salaries and compensation of its officers with the Director of Insurance.

**COMMITTEE AMENDMENTS-LEFT PENDING ON GENERAL FILE**

The committee amendments (AM1730) would make no change in the current requirement in section 44-322 for filing salaries and compensation of insurance company officers, but would require that such information (1) shall be maintained as confidential by the Director of Insurance and (2) shall not be disclosed to persons outside the Department of Insurance except as agreed to by the insurance company or as ordered by a court.

**LB831 (Christensen) Provide a requirement relating to coverage of medical equipment and prohibit unreasonable delays relating to preapproval of coverage**

**Left in Committee**

This bill would enact a new insurance section to provide that, in the case of individual or group health coverage, reimbursement for medical equipment costs shall be applied to the deductible year in which the request for approval of coverage of the equipment was received by the insurer.

The bill would also amend section 44-1540 of the Unfair Insurance Claims Settlement Practices Act to provide that it is an unfair claims settlement practice for an insurer to unreasonably delay a request for preapproval of coverage for medical equipment.

**LB849 (B. Harr) Redefine automobile liability policy relating to the Motor Vehicle Registration Act**

**Left in Committee**

This bill would amend section 60-310 of the Motor Vehicle Registration Act to provide that an automobile liability policy shall not exclude, limit, reduce, or otherwise alter

liability coverage under the policy solely because "the driver of the insured vehicle is a permissive user of the vehicle."

**LB858 (Howard) Provide requirements relating to pharmacists and health care services in health insurance**

**Left in Committee**

This bill would enact a new insurance section to provide that individual and group health coverage shall recognize pharmacists as health care providers who have the authority to provide health care services that include medication therapy management services, chronic disease management services, comprehensive medication review, and other such professional services provided to patients by pharmacists.

This bill would also amend section 44-513 to provide that whenever an insurer provides for reimbursement for a service which may be legally performed by a pharmacist, reimbursement shall be made regardless of whether the service is performed by a medical doctor or by a pharmacist.

**LB860 (Nordquist) Adopt health insurance requirements relating to dollar limits, rescissions, preexisting conditions, and dependents**

**Left in Committee**

This bill would enact new and amend existing sections regarding health insurance.

The bill would enact seven new sections regarding group health plans and health insurers offering group or individual health insurance coverage:

Section 1 would provide that insurers may not establish lifetime or unreasonable annual limits on benefits.

Section 2 would provide that insurers shall not rescind the plan or coverage of an enrollee except for fraud or intentional misrepresentation of material fact.

Section 3 would provide that insurers may not impose any preexisting condition exclusion.

Section 4 would provide that an insurer shall, with respect to each plan year, submit to the Director of Insurance a report concerning the percentage of total premium revenue that such coverage expends: (1) on reimbursement for clinical services provided to enrollees; (2) for activities that improve health care quality; and (3) on all other nonclaim costs.

Section 5 would provide that an insurer shall, with respect to each plan year, provide an annual rebate to each enrollee, on a pro rata basis, in an amount equal to the amount by which premium revenue expended on nonclaim costs exceeds: (1) with respect to an insurer offering group coverage, twenty percent; or (2) with respect to an insurer offering individual coverage, twenty-five percent, subject to adjustment by the Director of Insurance.

Section 6 would provide that insurers shall implement effective appeals processes for appeals of coverage determinations and claims.

Section 7 would provide that, with respect to the premium rate charged in the individual or small group market, the rate shall vary only by (1) whether coverage is individual or family, (2) rating area, (3) age, and (4) tobacco use.

Sections 8 to 10 of the bill would amend sections 44-710.01, 44-761, and 44-7,103 to require dependent coverage through age 26.

Section 11 would provide for repeal of the amendatory sections.

### **LB875 (Howard) Change provisions relating to long-term insurance**

#### **Left in Committee**

This bill would amend section 44-4517.02 of the Long-Term Care Insurance Act to provide that if a premium for a long-term care insurance policy has increased to an amount greater than the amount of the original premium increased by an annual rate of six percent, the policy shall allow the option of return of all premiums paid while the policy was in force plus fourteen percent per annum interest.

### **LB876 (Howard) Require a bodily injury exception from a pollutant exclusion in certain insurance policies**

#### **Enacted**

**Effective July 18, 2014**

This bill enacts a new section to provide that an exclusion in a homeowner's or an owner's, landlord's, and tenant's policy for loss arising out of the discharge, dispersal, release, or escape of pollutants shall include an exception to the exclusion for bodily injury sustained within a building and caused by smoke, fumes, vapor, or soot from a heating or ventilation system.

The bill provides that it applies to policies issued or delivered in in this state on or after January 1, 2015.

The bill passed 48-0-1 on April 10, 2014 and was approved by the Governor on April 10, 2014.

**LB883 (Nordquist) Eliminate a termination date on coverage requirements for anticancer medication**

**Left on General File  
Provisions amended into LB254e and Enacted**

This bill would repeal the December 31, 2015 termination (sunset) date for section 44-7,104. That section provides that individual and group health policies, certificates, and contracts and self-funded employee benefit plans to the extent not preempted by federal law shall provide coverage for orally administered anticancer medication on a basis no less favorable than intravenously administered or injected anticancer medications.

**LB926 (Howard) Change provisions relating to rules and regulations of the Department of Insurance**

**Left on General File  
Provisions amended into LB700 and Enacted**

This bill, introduced at the request of the Director of Insurance, would amend three sections regarding the director's rule and regulation authority. The bill would provide, section by section, as follows:

Section 1 would amend section 12-1109 to authorize rather than require the director to adopt and promulgate rules and regulations to carry out and enforce the Burial Pre-Need Sale Act.

Section 2 would amend section 44-165 to authorize rather than require the director to adopt and promulgate rules and regulations regarding the regulation of financial conglomerates on a consolidated basis.

Section 3 would amend section 44-3719 to authorize rather than require the director to adopt and promulgate rules and regulations to carry out and enforce the Motor Club Services Act.

Section 4 would provide for repeal of the amendatory sections.

## **LB953 (Howard) Adopt the Health Information Initiative Act and provide funding**

### **Left in Committee**

This bill would enact four new sections to be known as the Health Information Initiative Act.

The bill would define a "health information initiative" as a public-private statewide initiative that operates a health information exchange which facilitates the secure exchange of clinical information among physicians and other health care providers in real time at the point of care.

The bill would provide that a person who offers, issues, reviews, or administers a health insurance policy shall (1) participate in a health initiative and implement the required interfaces, (2) meet the qualification requirements to participate, (3) sign a participation agreement, and (4) pay the fees required to participate.

The bill would create the Health Information Initiative Support Fund to support collaborative public-private, not-for-profit partnerships to facilitate the secure exchange of clinical information among physicians and other health care providers in real time at the point of care. The fund would consist of public and private gifts, bequests, grants, or contributions, premium taxes, and other money appropriate to the fund.

The bill would provide that a health information initiative seeking funds to support the secure exchange of clinical information among physicians and other health care providers shall submit an annual application to the Division of Public Health of the Department of Health and Human Services.

The bill would amend section 77-912 to provide for an annual transfer of one million dollars of premium taxes paid by insurers writing health insurance to the Health Information Initiative Support Fund.

The bill carries the emergency clause and would provide for an operative date of July 1, 2014 applicable to the section providing for transfer of premium taxes.

## **LB971 (Kolowski) Change and eliminate provisions relating to stacking of insurance coverage**

### **Left in Committee**

This bill would amend sections 44-6410 and 44-6411 of the Uninsured and Underinsured Motorist Insurance Coverage Act to provide that no policy of insurance shall prohibit the limits of liability for uninsured or underinsured motorist coverage for two or more motor vehicles insured under the same policy or separate policies from being stacked to determine the limit of coverage available to an injured person for any one accident.

**LB993 (Christensen) Provide that health care sharing ministries are not insurance**

**Left on General File**

**Provisions amended into LB700 and Enacted**

This bill would enact a new section to provide that a health care sharing ministry shall not be considered to be engaging in the business of insurance.

The bill would define "health care sharing ministry" as a faith-based, tax-exempt, nonprofit organization that:

- (a) limits its participants to those of a similar faith;
- (b) matches participants with financial or medical needs with other participants with the ability to assist those with financial or medical needs;
- (c) provides for financial or medical needs of a participant through contributions from other participants;
- (d) provides amounts that participants may contribute with no assumption of risk or promise to pay;
- (e) provides written monthly statements;
- (f) provides a written disclaimer and notice;
- (g) has participants who retain participation even after they develop a medical condition;  
and
- (h) conducts an annual certified public accountant audit.

## OTHER INSURANCE-RELATED LEGISLATION

**LB254e (Adams) Eliminate a termination date for insurance coverage for anticancer medication and provide insurance coverage for autism spectrum disorder and funding for amino acid-based elemental formulas**

**Enacted**

**Operative April 22, 2014 (effective date of the bill), except section 3 is operative July 1, 2014, and sections 1, 2, and 8 are operative on July 18, 2014 (three calendar months after adjournment of the session)**

**Contains provisions of LB883 and LB505. Contains provisions related to LB397.**

This bill, as introduced, was referenced to the Education Committee. It would amend section 81-1120.24 to update a reference to the Nebraska Educational Telecommunications Commission and revise a list of sections that are not applicable to the Nebraska educational television network except for services or assistance that are mutually beneficial and agreed upon by and between the division of communications and the Nebraska Educational Telecommunications Commission. The original provisions of the bill were amended out on Select File.

The provisions of two other bills were amended into LB254 on Select File. Those bills are:

1. LB883 (Nordquist) Eliminate a termination date on coverage requirements for anticancer medication (section 1); and
2. LB505 (Coash) Provide requirement for insurance coverage of autism spectrum disorders (sections 2 and 4).

Provisions based on issues raised by another bill were amended into LB254 on Select File. That bill is: LB397 (Conrad) Require insurance coverage for screening for amino acid-based formulas (sections 3, 5, and 6).

LB254 provides, section by section, as follows:

Section 1 amends section 44-7104 by repealing its December 31, 2015 termination (sunset) date. That section provides that individual and group health policies, certificates, and contracts and self-funded employee benefit plans to the extent not preempted by federal law shall provide coverage for orally administered anticancer medication on a basis no less favorable than intravenously administered or injected anticancer medications.

Section 2 enacts a new section to provide that individual and group sickness and accident insurance policies, certificates, and subscriber contracts; hospital, medical, or surgical expense-incurred policies; and self-funded employee benefit plans to the extent not preempted by federal law shall provide coverage for the screening, diagnosis, and treatment of an autism spectrum disorder in an individual under twenty-one years of age.

This section provides that it does not apply to non-grandfathered plans in the individual and small group markets that are required to include essential health benefits under the federal Patient Protection and Affordable Care Act.

This section provides that the required coverage shall not be subject to any limits on the number of visits for treatment, and that such coverage shall not be subject to dollar limits, deductibles, copayments, or coinsurance provisions that are less favorable than the equivalent provisions applicable to a general physical illness.

This section provides that coverage shall be subject to a maximum benefit of twenty-five hours per week until the insured reaches twenty-one years of age.

This section provides that an insurer shall have the right to request a review of treatment every six months.

Section 3 enacts a new section to provide that the Department of Health and Human Services shall establish a program to provide amino acid-based elemental formulas for the diagnosis and treatment of Immunoglobulin E and non-Immunoglobulin E mediated allergies to multiple food proteins, food-protein-induced enterocolitis syndrome, eosinophilic disorders, and impaired absorption of nutrients caused by disorders affecting the absorptive surface, functional length, and motility of the gastrointestinal tract, when the ordering physician has issued a written order stating that the amino acid-based elemental formula is medically necessary for the treatment of a disease or disorder.

This section provides that up to fifty percent of the actual out-of-pocket cost, not to exceed \$12,000, for covered formulas shall be available to an individual each-twelve month period. This section provides that the department shall distribute the funds on a first-come, first-served basis.

This section provides that the maximum total General Fund expenditures per year for covered formulas shall not exceed \$250,000 for each fiscal year in FY2014-15 and FY2015-16.

This section provides that the department shall provide an annual report on this program to the Legislature.

Section 4 appropriates \$362,500 for FY2014-15 and \$725,000 for FY2015-16 from the General Fund to the University of Nebraska for University Health Plan coverage for autism.

Section 5 appropriates \$250,000 for FY2014-15 and \$250,000 for FY2015-16 from the General Fund to the Department of Health and Human Services to provide funding regarding amino acid-based elemental formulas.

Section 6 appropriates \$10,000 in FY2014-15 and \$10,000 for FY2015-16 from the General Fund to the Department of Health and Human Services to carry out the bill regarding amino acid-based elemental formulas.

Section 7 provides for operative dates. Sections 1, 2, and 8 become operative three calendar months after the adjournment of the legislative session (July 18, 2014). Section 3 becomes operative on July 1, 2014. The other sections become operative on their effective date (April 22, 2014).

Section 8 provides for the repeal of the amendatory section.

Section 9 provides for the emergency clause.

The bill passed 48-0-1 with the emergency clause on April 17, 2014 and was approved by the Governor on April 21, 2014.

## INTEREST, LOANS, AND DEBT

**LB788 (Schumacher) Change provisions relating to real estate loans, fiduciary accounts, decedents' estates, hearsay exceptions, mortgages, trust deeds, and safe deposit boxes**

**Enacted**

**Effective July 18, 2014**

**Senator Priority Bill (Wightman)**

**Original provisions amended out of the bill. Contains provisions of LB810, LB815, LB775, LB151, LB988, and LB819**

The bill, as introduced, would create a statutory lien and grant a security interest in bond-pledged revenue sources of the issuing governmental unit. The lien would be valid, binding, and prior against all parties having claims against the governmental unit in a bankruptcy filing. The original provisions of the bill were amended out on Select File.

The provisions of six other bills were amended into LB788 on Select File. Those bills are:

1. LB810 (Watermeier) Change provisions relating to the enforcement and servicing of real estate loans (section 1);
2. LB815 (Murante) Change provisions relating to fiduciary accounts controlled by a trust department (section 2);
3. LB775 (Seiler) Provide for disclosure of a decedent's financial information as prescribed (sections 3 to 6) (This bill was heard and advanced by the Judiciary Committee.);
4. LB151 (Seiler) Provide a hearsay exception for certain documents and data kept in the regular course of business (section 7) (This bill was heard and advanced by the Judiciary Committee.);
5. LB988 (Schumacher) Provide for certain access to decedent's safe deposit box (sections 8 and 9) (This bill was heard and advanced by the Judiciary Committee.); and
6. LB819 (Wightman) Change provisions relating to future advances on mortgages or trust deeds (sections 10 and 11).

LB778 provides, section by section, as follows:

Sections 1 enacts a new section to provide that no local ordinance or resolution shall interfere with the enforcement and servicing of any real estate loan agreement or any mortgage, deed of trust, or other security instrument by which the loan is secured. This section provides that it applies to any local ordinance or resolution adopted before, on, or after the effective date of the bill. This section also provides that it does not apply to any ordinance or resolution adopted pursuant to the Community Development Law.

Section 2 amends section 8-162.02 of the Nebraska Banking Act, which provides that a state-chartered bank may deposit or have on deposit funds of a fiduciary account controlled by the bank's trust department. This section provides that to the extent that the funds are "awaiting investment or distribution and are" not insured or guaranteed by the Federal Deposit Insurance Corporation, a state-chartered bank shall set aside collateral as security under control of appropriate fiduciary officers and bank employees. This section provides that it does not apply to a fiduciary account in which full investment authority is retained by the grantor or is vested in persons or entities other than the state-chartered bank and the bank, acting in its fiduciary capacity, does not have the power to exert any influence over investment decisions.

Sections 3 to 6 amend sections 8-1401 to 8-1403 and enact a new section to provide procedures for disclosure of a decedent's otherwise confidential financial information. After the death of a decedent, a person (a) indebted to the decedent or (b) having possession of (i) personal property, (ii) an instrument evidencing a debt, (iii) an obligation, (iv) a chose in action, (v) a life insurance policy, (vi) a bank account, (vii) a certificate of deposit, or (viii) intangible property, including annuities, fixed income investments, mutual funds, cash, money market accounts, or stocks, belonging to the decedent, shall furnish the value of the indebtedness or property on the date of death and the names of the known or designated beneficiaries of property described to a person who is (A) an heir at law of the decedent, (B) a devisee of the decedent or a person nominated as a personal representative in a will of the decedent, or (C) an agent or attorney who presents an affidavit containing required information. A person presented with an affidavit shall provide the requested information within five business days. A person who acts in good faith reliance on such an affidavit is immune from liability for the disclosure of the requested information.

Section 7 amends section 27-803 of the Nebraska Evidence Rules to add a new exception to the hearsay rule: A memorandum, report, record, or data compilation, in any form, of acts, events, or conditions, other than opinions or diagnoses, that was received or acquired in the regular course of business by an entity from another entity and has been incorporated into and kept in the regular course of business of the receiving or acquiring entity; that the receiving or acquiring entity typically relies upon the accuracy of the contents of the memorandum, report, record, or data compilation; and that the circumstances otherwise indicate the trustworthiness of the memorandum, report, record, or data compilation, as shown by the testimony of the custodian or other qualified witness. This exception does not apply in any criminal proceeding.

Sections 8 and 9 amend section 30-2201 of the Nebraska Probate Code and enact a new section in that act to provide that if a decedent was a sole or last surviving joint lessee of

a safe deposit box, the custodian financial institution shall, prior to notice that a personal representative or special administrator has been appointed for such decedent's estate, allow access to the safe deposit box to determine whether the safe deposit box contains an instrument that appears to be an original will of the decedent, a deed to a burial plot, or burial instructions.

Sections 10 and 11 amend section 76-238.01 regarding mortgages and section 76-1002 of the Nebraska Trust Deeds Act. The bill amends both sections with provisions borrowed from each other so that they become very similar to each other. The bill adds new provisions to both sections to provide that real property may be mortgaged or transfers in trust of real property may be made to secure (1) future advances necessary to protect the security, even though such future advances cause the total indebtedness to exceed the maximum amount stated in the mortgage or in the trust deed, or (2) any future advances to be made at the option of the parties in any amount unless a maximum amount of total indebtedness is stated in the mortgage or in the trust deed.

Section 12 provides for codification assignment of section 9 of the bill.

Section 13 provides for repeal of the amendatory sections.

The bill passed 45-0-4 on April 17, 2014 and was approved by the Governor on April 22, 2014.

### **LB810 (Watermeier) Change provisions relating to the enforcement and servicing of real estate loans**

#### **Left on Select File Provisions amended into LB788 and Enacted Speaker Priority Bill**

This bill would enact a new section to provide that no local ordinance or resolution shall interfere with the enforcement and servicing of any real estate loan agreement or any mortgage, deed of trust, or other security instrument by which the loan is secured.

The bill would provide that it applies to any local ordinance or resolution adopted before, on, or after the effective date of the bill.

The bill carries the emergency clause.

#### **COMMITTEE AMENDMENTS**

The committee amendments (AM1865) would provide that the requirements of the bill shall not apply to a local ordinance or resolution adopted pursuant to the Community Development Law.

**LB991 (Nordquist) Prohibit collection of interchange fees by payment card networks on certain taxes and fees**

**Left in Committee**

This bill would enact seven new sections to prohibit the collection of interchange fees on certain taxes or fees in the case of electronic payment transactions initiated by debit card or credit card. The bill would provide that the amount of any state or local tax or fee that is separately calculated as a percentage of an electronic payment transaction or the amount of any motor fuel taxes shall be excluded from the amount of the interchange fee charged for that electronic payment transaction.

The bill would provide the Attorney General with enforcement authority. Intentional violations would be subject to court-imposed civil penalties of not less than one thousand dollars nor more than five thousand dollars per violation. Persons paying interchange fees in violation of the bill would be allowed to seek damages and equitable relief.

The bill would provide that if it were held invalid with regard to a federally chartered financial institution, then the bill shall be equally invalid with regard to a financial institution licensed by or operating in this state.

The bill would provide that it shall be applicable to electronic payment transactions processed on or after October 1, 2014.

## LIENS

### **LB668 (Hadley) Provide for extinguishment of a lien or security interest as prescribed**

#### **Left on General File Provisions amended into LB851e and Enacted**

This bill would amend Chapter 52, article 6, which provides procedures for a person who claims a possessory lien on personal property to dispose of the property by sale for reasonable value to satisfy the lien and the costs of sale as long as the disposition does not occur until thirty days after mailing of notice of the sale to the last-known address of the owner of the property and to any lien or security interest holder of record. (See section 52-601.01.)

The bill would amend section 52-603 to provide that the sale shall extinguish any lien or security interest of a lienholder or security interest holder of record to which notice of sale was mailed. The bill would also amend section 52-604 to specify that the proceeds of the sale shall go to the possessory lienholder and then to any lienholder or security interest holder of record.

### **LB750e (B. Harr) Change provisions relating to lien perfection and termination**

#### **Enacted Effective April 11, 2014**

This bill amends various sections to provide for the filing of continuation statements for certain statutory liens.

The bill enacts a new section to provide that a financing statement filed to perfect a lien pursuant to section 52-202 (artisan's liens), section 52-501 (thresher's liens), section 52-701 (veterinarian's liens), section 52-901 (petroleum products liens), section 52-1101 (fertilizer and agricultural chemical liens), section 52-1201 (seed or electrical power and energy liens), sections 52-1401 to 52-1411 (agricultural production liens), section 54-201 (agister's liens), or section 54-208 (feed or feed ingredients liens), which was properly filed prior to November 1, 2003, shall lose its perfection unless a continuation statement is filed after June 30, 2014 and before January 1, 2015. This section further provides that, not later than May 31, 2014, the Secretary of State shall notify, by first class mail, the lienholders of record of the liens described in this section that such a lien shall lose its perfection unless a continuation statement is filed with the Secretary of State as provided in the bill.

The bill amends the appropriate sections governing the liens described above to provide that, effective January 1, 2015, those sections apply to liens created under them

regardless of when they were created and that any financing statement filed to perfect those liens shall be terminated as provided in article 9, Uniform Commercial Code.

The bill passed 48-0-1 on April 9, 2014 with the emergency clause and was approved by the Governor on April 10, 2014.

## **REAL PROPERTY AND REAL ESTATE**

### **LB684 (Christensen) Change provisions relating to the Nebraska Appraisal Management Company Registration Act**

#### **Left in Committee**

This bill, introduced at the request of the Real Property Appraiser Board, would amend various provisions of the Nebraska Appraisal Management Company Registration Act, which is administered by the board. The bill would provide, section by section, as follows:

Section 1 would amend section 76-3201 of the Nebraska Appraisal Management Company Registration Act to provide for codification assignment of new section 3 of the bill.

Section 2 would amend section 76-3202 of the Nebraska Appraisal Management Company Registration Act, which provides for definitions. This section would amend the definition of "appraisal management company" to include all third-party companies that provide appraisal management services. This section would provide for definitions of new terms: "appraisal management company client," "evaluation assignment," "real property appraiser," "report," and "third-party assignment." This section would repeal definitions of "appraisal report," and "consulting service." This section would update definitions of "appraisal review," "appraisal services," "appraiser," "appraiser panel," "federal financial institution regulatory agency" (to substitute "the Consumer Financial Protection Bureau" for "the Office of Thrift Supervision"), and "quality control examination."

Section 3 would enact a new section in the Nebraska Appraisal Management Company Registration Act to provide for requirements for registration and enforcement authority for the board including issuance of cease and desist orders.

Section 4 would amend section 76-3203 of the Nebraska Appraisal Management Company Registration Act to repeal replaced registration requirement provisions and to provide that an application for registration shall be valid for one year from the date received at the board's office.

Section 5 would amend section 76-3204 of the Nebraska Appraisal Management Company Registration Act to harmonize terminology.

Section 6 would amend section 76-3206 of the Nebraska Appraisal Management Company Registration Act to provide the board with authority to establish and collect fees as it deems appropriate for special examinations and other services provided by the board.

Section 7 would amend section 76-3208 of the Nebraska Appraisal Management Company Registration Act to limit the length of time (ten years) that an appraisal management company would have to refrain from employing an appraiser who has had regulatory action taken against his or her credential. This section would provide that an appraisal management company or applicant shall not require an appraiser to indemnify or hold harmless an appraisal management company for any loss or claim arising out of services provided by the appraisal management company.

Section 8 would amend section 76-3213 of the Nebraska Appraisal Management Company Registration Act to harmonize terminology.

Section 9 would amend section 76-3215 of the Nebraska Appraisal Management Company Registration Act to harmonize terminology.

Section 10 would amend section 76-3216 of the Nebraska Appraisal Management Company Registration Act to provide for investigation of any alleged violation of the act.

Section 11 would amend section 76-3217 of the Nebraska Appraisal Management Company Registration Act to provide for administrative hearings on allegations of violations of the act.

Section 12 would amend section 76-3219 of the Nebraska Appraisal Management Company Registration Act to provide requirements regarding the board's cash fund. This section would provide that transfers to the General Fund from the board's cash fund by the Legislature shall not decrease the cash fund below a sufficient balance as determined by the board.

Section 13 would provide repeal of the amendatory sections.

## **LB685 (Christensen) Change and eliminate provisions relating to the Real Property Appraiser Act**

### **Left in Committee**

This bill, introduced at the request of Real Property Appraiser Board, would amend various provisions of the Real Property Appraiser Act, which is administered by the board. The bill would provide, section by section, as follows:

Section 1 would amend section 76-2201 of the Real Property Appraiser Act to provide for codification assignment of the new sections of the bill.

Section 2 would amend section 76-2202 of the Real Property Appraiser Act to update references to federal acts.

Section 3 to 27 would provide for new and amended definitions. Sections 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 18, 20, 21, 26, and 27 would enact new definitions of "appraisal review," "Appraiser Qualifications Board," "assignment," "automated valuation model," "client," "credential holder," "education provider," "employee," "instructor," "person," "real property associate," "scope of work," "specialized knowledge," "valuation services," and "workfile." Sections 4, 5, 16, 17, 19, 22, 23, 24, and 25 would amend sections 76-2204, 76-2205.01, 76-2215, 76-2216, 76-2206, 76-2217.02, 76-2218, 76-2213.01, and 76-2219 to update or provide for codification reassignment of the definitions of "appraisal," "appraisal practice," "real property appraisal activity," "real property appraiser," "appraisal report," "trainee real property appraiser," "two-year continuing education period," "Uniform Standards of Professional Appraisal Practice," and "valuation assignment."

Section 28 would amend section 76-2220 of the Real Property Appraiser Act to provide for who shall be deemed a real property appraiser or real property associate and to provide the board with cease and desist authority.

Section 29 would amend section 76-2221 of the Real Property Appraiser Act to provide that the act shall not apply to persons performing valuation services as employees of certain government, insurance, or financial institution employers; certain elected officials; and automated valuation models used to estimate collateral value of real estate for lending purposes.

Section 30 would amend section 76-2222 of the Real Property Appraiser Act to provide for a \$3,000 per member annual cap on existing member per diems for board meetings and also authorize member travel per diems with a \$1,500 per member annual cap.

Section 31 would amend section 76-2223 of the Real Property Appraiser Act to update a reference to a federal act and update terminology.

Section 32 would amend section 76-2226 of the Real Property Appraiser Act to provide that transfers to the General Fund from the board's cash fund by the Legislature shall not decrease the cash fund below a sufficient balance as determined by the board.

Section 33 would enact a new section in the Real Property Appraiser Act to provide for a new credential - a real property associate. This section would provide that the scope of practice of a real property associate shall be limited to valuation services not requiring an appraiser credential.

Section 34 would amend section 76-2228.01 of the Real Property Appraiser Act to update terminology and update a reference to a federal act.

Section 35 would amend section 76-2230 of the Real Property Appraiser Act to update a reference to a federal act and update terminology.

Section 36 would amend section 76-2233.01 of the Real Property Appraiser Act to update provisions regarding temporary credentials.

Section 37 would amend section 76-2233.02 of the Real Property Appraiser Act to update provisions regarding renewal of credentials and provide that a credential may be renewed for one or two years.

Section 38 would enact a new section in the Real Property Appraiser Act to provide for credentials to be placed on inactive status.

Section 39 would amend section 76-2236 of the Real Property Appraiser Act to update provisions regarding continuing education.

Section 40 would enact a new section in the Real Property Appraiser Act to provide that no person shall improperly assume or use the title of a credential under the act.

Section 41 would amend section 76-2237 of the Real Property Appraiser Act to repeal the requirement that the board transmit electronically its rules and regulations to each credential holder.

Section 42 would amend section 76-2238 of the Real Property Appraiser Act to provide additional grounds for disciplinary action or denial of an application by the board.

Section 43 would amend section 76-2239 of the Real Property Appraiser Act to update provisions regarding investigations and disciplinary action by the board.

Section 44 would amend section 76-2241 of the Real Property Appraiser Act to update provisions regarding fees and to update a reference to a federal act.

Section 45 would amend section 76-2242 of the Real Property Appraiser Act to provide for duplicate proof of credentialing and to repeal the requirement for return of proof of credentialing upon surrender, cancellation, suspension, or revocation.

Section 46 would amend section 76-2244 of the Real Property Appraiser Act to provide that nonresident, as well as resident, credential holders shall designate and maintain a principal place of business.

Section 47 would amend section 76-2245 of the Real Property Appraiser Act to update provisions regarding real property associates.

Section 48 would amend section 76-2246 of the Real Property Appraiser Act to update provisions regarding real property associates.

Section 49 would enact a new section in the Real Property Appraiser Act to make it a Class III misdemeanor to improperly influence or attempt to improperly influence the independent judgment of a real property appraiser or real property associate.

Section 50 would amend section 76-2247.01 of the Real Property Appraiser Act to update terminology.

Section 51 would amend section 76-2249 of the Real Property Appraiser Act to provide that the board may prepare "an electronic" rather than "a printed" directory of credential holders, and to update a reference to a federal act.

Section 52 would amend section 76-3202 of Nebraska Appraisal Management Company Registration Act to harmonize terminology.

Section 53 would provide for repeal of the amendatory sections.

Section 54 would provide for the outright repeal of section 76-2211.01 - the definition of "consulting service" and section 76-2229 - restrictions on the use of titles.

## **LB687 (Christensen) Change application procedures for real estate licenses**

### **Enacted**

**Effective July 18, 2014**

This bill, introduced at the request of the State Real Estate Commission, amends sections 81-885.11, 81-885.13, and 81-885.17 of the Real Estate License Act regarding applications for broker's and salesperson's licenses.

The bill provides that an application for a broker's or salesperson's license shall expire one year after the date of receipt in the commission's office.

The bill provides that within thirty days after passing the examination for a broker's or salesperson's license the applicant must complete all requirements for the issuance of a license.

The bill repeals the requirement that a criminal history record information check shall be completed within ninety days preceding the date the original application for a license or a nonresident license is received in the commission's office. The bill requires that each applicant for a license shall furnish a full set of fingerprints to the Nebraska State Patrol after filing application for a license.

The bill passed 45-0-4 on April 9, 2014 and was approved by the Governor on April 10, 2014.

### **LB687A (Christensen) Appropriation Bill**

**Enacted**

**Effective July 18, 2014**

This bill appropriates \$31,920 for FY2014-15 and \$33,060 for FY2015-16 from the State Real Estate Commission's Fund to the State Real Estate Commission to carry out LB687.

The bill passed 46-0-3 on April 9, 2014 and was approved by the Governor on April 10, 2014.

### **LB717e (Gloor) Change provisions relating to the Real Property Appraiser Act and professional qualifications**

**Enacted**

**Effective April 10, 2014 (effective date of the bill), except sections 15 to 20 and 27 become operative on January 1, 2015**

**Speaker Priority Bill**

This bill, introduced at the request of the Real Property Appraiser Board, updates the Nebraska Real Property Appraiser Act with the necessary requirements for compliance with the federal real property appraiser qualification criteria that become effective January 1, 2015.

The bill provides, section by section, as follows:

Section 1 amends section 76-2201 of the Real Property Appraiser Act to provide for codification assignment of the new sections of the bill.

Section 2 amends section 76-2202 of the Real Property Appraiser Act to update a reference to a federal act and to harmonize provisions.

Sections 3 to 12 provide for amended and new definitions. Sections 4 to 9, and 11 enact new definitions of "accredited degree-awarding community college, college, or university," "completed application," "complex residential real property," "fifteen-hour National Uniform Standards of Professional Appraiser Practice Course," "Financial Institutions Reform, Recovery, and Enforcement Act of 1989," "jurisdiction of practice," and "signature." Section 10 amends section 76-2213.01 to update the date reference in the definition of "Uniform Standards of Professional Appraisal Practice." Section 12 provides for codification reassignment of the definition of "trainee real property appraiser."

Section 13 amends section 76-2223 of the Real Property Appraiser Act to harmonize terminology.

Section 14 amends section 76-2227 of the Real Property Appraiser Act to update provisions regarding information required in applications for credentials.

Section 15 amends section 76-2228.01 of the Real Property Appraiser Act to update provisions regarding qualifications for a credential as a trainee real property appraiser and for an upgraded credential. This section specifies the scope of practice for a trainee real property appraiser.

Section 16 enacts a new section in the Real Property Appraiser Act to provide that each trainee real property appraiser's experience shall be subject to direct supervision by a supervisory appraiser. This section provides for the qualifications and responsibilities of a supervisory appraiser.

Section 17 amends section 76-2230 of the Real Property Appraiser Act to update provisions regarding qualifications for a credential as a licensed residential real property appraiser and for an upgraded credential. This section specifies the scope of practice for a licensed residential real property appraiser.

Section 18 amends section 76-2231.01 of the Real Property Appraiser Act to update provisions regarding qualifications for a credential as a certified residential real property appraiser and for an upgraded credential. This section specifies the scope of practice for a certified residential real property appraiser.

Section 19 amends section 76-2232 of the Real Property Appraiser Act to update provisions regarding qualifications for a credential as a certified general real property appraiser. The section specifies the scope of practice for certified general residential real property appraiser.

Section 20 amends section 76-2233 of the Real Property Appraiser Act to update provisions regarding qualifications for a reciprocal credential.

Section 21 amends section 76-2233.02 of the Real Property Appraiser Act to update provisions regarding renewal of credentials and to establish a random fingerprint-based national criminal history record check audit program.

Section 22 amends section 76-2236 of the Real Property Appraiser Act to update provisions regarding continuing education requirements.

Section 23 amends section 76-2238 of the Real Property Appraiser Act to provide for additional acts and omissions that are considered grounds for disciplinary action or denial of an application by the Real Property Appraiser Board.

Section 24 amends section 76-2241 of the Real Property Appraiser Act to establish a fee for a criminal history record check in an amount of no more than one hundred dollars.

Section 25 amends section 76-2249 of the Real Property Appraiser Act to harmonize provisions.

Section 26 provides for operative dates. Sections 15 to 20 and 27 become operative on January 1, 2015 and sections 1 to 14, 21 to 26, 28, and 29 become operative on their effective date (April 10, 2014).

Sections 27 and 28 provide repeal of the amendatory sections.

Section 29 provides for the emergency clause.

The bill passed 47-0-2 with the emergency clause on April 3, 2014 and was approved by the Governor on April 9, 2014.

### **LB819 (Wightman) Change provisions relating to future advances on mortgages or trust deeds**

#### **Left on General File**

#### **Provisions amended into LB788 and Enacted**

This bill would amend section 76-238.01 regarding mortgages and section 76-1002 of the Nebraska Trust Deeds Act. The bill would amend both sections with provisions borrowed from each other so that they would become very similar to each other.

The bill would add new provisions to both sections that would provide that real property may be mortgaged or transfers in trust of real property may be made to secure (1) future advances necessary to protect the security, even though such future advances cause the total indebtedness to exceed the maximum amount stated in the mortgage or in the transfer in trust of real property or in the trust deed, or (2) any future advances to be made at the option of the parties in any amount unless a maximum amount of total indebtedness is stated in the mortgage or in the transfer in trust of real property or in the trust deed.

#### **COMMITTEE AMENDMENTS**

The committee amendments (AM1826) would make clarifying additions and deletions in the mortgage section and in the trust deed section of the bill. The amendments would also make consistent with each other parallel provisions in the mortgage section and in the trust deed section regarding certified mail notice to a mortgagee/beneficiary with regard to optional future advances.

## **LB886 (B. Harr) Change provisions relating to the Nebraska Condominium Act**

### **Left on General File**

This bill would amend the Nebraska Condominium Act to change requirements regarding unit owner votes for certain decisions. The bill would provide, section by section, as follows:

Section 1 would amend section 76-854 to eliminate the requirement that no amendment to the declaration may increase the number of units, or change boundaries of any unit, the allocation interests of a unit, or the uses to which any unit is restricted in the absence of the unanimous consent of the unit owners. This section would provide that no amendment to the declaration may change the boundaries of any unit, the allocated interests of any unit, or the uses to which any unit is restricted without the consent of the owner of the unit.

Section 2 would amend section 76-855 to provide that a condominium may be terminated only by agreement of unit owners of units to which at least "sixty-seven" rather than "eighty" percent of the votes in the unit owners association are allocated, or any larger percentage the declaration specifies.

Section 3 would amend section 76-870 to provide that portions of the common elements may be conveyed or subjected to a security interest by the unit owners association if persons entitled to cast at least "sixty-seven" rather than "eighty" percent of the votes in the association, including "sixty-seven" rather than "eighty" percent of the votes allocated to units not owned by a declarant, or any larger percentage the declaration specifies, agree to that action.

Section 4 would amend section 76-871 to provide that any portion of the condominium for which insurance is required under this section which is damaged or destroyed shall be repaired or replaced promptly by the unit owners association unless, among other things, "sixty-seven" rather than "eighty" percent of the unit owners, including every owner of a unit or assigned limited common element which will not be rebuilt, vote not to rebuild.

Section 5 would provide for repeal of the amendatory sections.

## **PUBLIC FUNDS DEPOSIT**

**LB734 (Schumacher) Provide for deposit of public funds with credit unions**

**Left in Committee**

This bill would amend sections 77-2302 and 77-2365.01 to bring state and federal credit unions within the definition of a "qualifying mutual financial institution" and thereby allow credit unions to accept the deposit of public funds.

## ECONOMIC DEVELOPMENT

### **LB1010 (Janssen) Adopt the Nebraska Enterprise Act and authorize the Governor to award economic development grants**

#### **Left in Committee**

This bill would enact nine new sections to be known as the Nebraska Enterprise Act to create a fund out of which the Governor would negotiate the awarding of grants to small businesses to create additional jobs; grants to small businesses from outside the state to relocate to this state; and grants to projects that create one hundred or fewer additional jobs.

Section 1 would enact a new section to provide for a named act: the Nebraska Enterprise Act.

Section 2 would enact a new section to provide that the purpose of the bill would be to provide the Governor with the ability to recruit and retain businesses to locate or expand in Nebraska.

Section 3 would provide for creation of the Nebraska Enterprise Fund to consist of amounts appropriated by the Legislature; gifts, grants, and donations; and interest earned on the fund. This section would provide that the fund may be used only for economic development, infrastructure development, community development, job training programs, and business incentives.

Section 4 would enact a new section to provide that the Governor may negotiate the awarding of grants from the Nebraska Enterprise Fund.

Section 5 would enact a new section to provide that before awarding a grant, the Governor shall prepare a statement that assesses the direct economic impact that approval of the grant would have on the residents of this state.

Section 6 would enact a new section to provide that the Governor shall give priority to grants to small businesses to create additional jobs; grants to small businesses from outside the state to relocate to this state; and grants for projects that create one hundred or fewer additional jobs.

Section 7 would enact a new section to provide for grant agreements to be amended.

Section 8 would enact a new section to provide that grant recipients shall submit an annual progress report to the Governor.

Section 9 would enact a new section to provide that the Governor shall submit an annual report to the Legislature.

## **TRADE PRACTICES**

### **LB880 (Harms) Require notice of debit and preauthorization hold amounts as prescribed and provide for a violation to be a deceptive trade practice**

#### **Left in Committee**

This bill would require business entities to provide written, oral, or electronic notice to customers regarding preauthorization holds initiated on debit cards.

The bill would require notice to include a statement that indicates the preauthorization hold practices of the business entity, including the maximum amount of a preauthorization hold, the maximum time of a preauthorization hold, and any alternatives to a preauthorization hold.

The bill would require that an electronic or written notice shall be in capital letters and in at least fourteen-point type or equivalent size if handwritten and shall be posted or displayed at the point of sale.

The bill would provide that a violation shall be a deceptive trade practice under the Uniform Deceptive Trade Practices Act.

The bill would require the Department of Banking and Finance to develop and make available a consumer awareness brochure that explains preauthorization hold practices.

The bill would require the Attorney General, by January 31, 2016, to report electronically to the Banking, Commerce and Insurance Committee the number of complaints received during 2015 regarding preauthorization hold practices.

**BANKING, COMMERCE AND INSURANCE COMMITTEE  
INTERIM STUDY RESOLUTIONS  
2014**

- LR497 (Gloor) Interim study to examine whether Nebraska should amend its insurance statutes to authorize property and casualty to provide electronic delivery of insurance notices and documents and Internet posting of certain insurance policies
- LR498 (Gloor) Interim study to further examine the updating of Nebraska's business entity statutes
- LR499 (Gloor) Interim study to examine whether Nebraska's Real Property Appraiser Act should be updated
- LR501 (Gloor) Interim study to examine whether the Nebraska Appraisal Management Company Registration Act should be updated
- LR506 (Christensen) Interim study to examine whether changes in the electronic payments market have rendered section 8-157.01 unworkable and inapplicable to financial institutions
- LR586 (Howard) Interim study to gather information and make recommendations to craft policy to support and continue electronic health records exchanges and health information initiatives  
(HHS Lead Committee)

